

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1737

Short Title: Legal Expense Funds.

(Public)

Sponsors: Representatives Goodwin; and Harrison.

Referred to: Election Law and Campaign Finance Reform, if favorable, Judiciary I.

April 19, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO REGULATE LEGAL EXPENSE FUNDS OF ELECTED OFFICERS.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Subchapter VIII of Chapter 163 is amended to add a new
5 Article to read:

6 "Article 22M.

7 "Legal Expense Funds.

8 **"§ 163-278.300. Definitions.**

9 As used in this Article, the following terms mean:

10 (1) Board. – The State Board of Elections.

11 (2) Contribution. – As defined in G.S. 163-278.6.

12 (3) Elected officer. – Any individual serving in an elected office in this
13 State.

14 (4) Legal expense fund. – Any collection of money for the purpose of
15 funding a legal action, or a potential legal action, taken by or against
16 an elected officer in that elected officer's official capacity.

17 (5) Person. – An individual, firm, partnership, committee, association,
18 corporation, business, or other organization or group of persons acting
19 together.

20 (6) Treasurer. – An individual appointed by an elected officer or other
21 person or group of persons collecting money for a legal expense fund.

22 **"§ 163-278.301. Creation of legal expense funds.**

23 (a) An elected official, or another person or group of persons on the elected
24 official's behalf, shall create a legal expense fund if given a contribution for any of the
25 following purposes:

26 (1) To fund an existing legal action taken by or against the elected officer
27 in that elected officer's official capacity.

28 (2) To fund a potential legal action, taken by or against an elected officer
29 in that elected officer's official capacity.

1 (b) The legal expense fund shall comply with all provisions of this Article.

2 (c) A violation of this Article shall be punishable as a Class 2 misdemeanor.

3 **"§§ 163-278.302 through 163-278.305: Reserved for future codification purposes.**

4 **"§ 163-278.306. Treasurer.**

5 (a) Each legal expense fund shall appoint a treasurer and, under verification,
6 report the name and address of the treasurer to the Board.

7 (b) A legal expense fund may remove its treasurer. In case of the death,
8 resignation, or removal of its treasurer, the legal expense fund shall appoint a successor
9 within 10 calendar days of the vacancy and certify the name and address of the
10 successor in the same manner provided in the case of an original appointment.

11 (c) Every treasurer of a legal expense fund shall receive training from the Board
12 as to the duties of the office within three months of appointment and at least once every
13 four years thereafter.

14 **"§ 163-278.307. Detailed accounts to be kept by treasurer.**

15 (a) The treasurer of each legal expense fund shall keep detailed accounts, current
16 within seven calendar days after the date of receiving a contribution or making an
17 expenditure, of all contributions received and all expenditures made by or on behalf of
18 the legal expense fund.

19 (b) Accounts kept by the treasurer of a legal expense fund or the accounts of a
20 treasurer or legal expense fund at any bank or other depository may be inspected by a
21 member, designee, agent, attorney, or employee of the Board who is making an
22 investigation pursuant to G.S. 163-278.22.

23 (c) For purposes of this section, "detailed accounts" shall mean at least all
24 information required to be included in the quarterly report required under this Article.

25 (d) When a treasurer shows that best efforts have been used to obtain, maintain,
26 and submit the information required by this Article, any report of the legal expense shall
27 be considered in compliance with this Article and shall not be the basis for criminal
28 prosecution or the imposition of civil penalties. The State Board of Elections shall adopt
29 rules to implement this subsection.

30 **"§ 163-278.308. Reports filed with Board.**

31 (a) The treasurer of each legal expense fund shall file with the Board the
32 following reports:

33 (1) Organizational report. – The report required under G.S. 163-278.309.

34 (2) Quarterly reports. – The report required under G.S. 163-278.310.

35 (b) Any report or attachment required by this Article must be filed under
36 certification of the treasurer as true and correct to the best of the knowledge of that
37 officer.

38 (c) The organizational report shall be filed within 10 calendar days of the
39 creation of the legal expense fund. All quarterly reports shall be filed with the Board no
40 later than 10 business days after the end of each calendar quarter.

41 (d) Treasurers shall electronically file each report required by this section that
42 shows a cumulative total for the quarter in excess of five thousand dollars (\$5,000) in
43 contributions or expenditures, according to rules adopted by the Board. The Board shall

1 provide the software necessary to the treasurer to file the required electronic report at no
2 cost to the legal expense fund.

3 **"§ 163-278.309. Organizational report.**

4 (a) Each appointed treasurer shall file with the Board a statement of organization
5 that includes all of the following:

6 (1) The name, address, and purpose of the legal expense fund.

7 (2) The names, addresses, and relationships of affiliated or connected
8 elected officials, candidates, political committees, referendum
9 committees, political parties, or similar organizations.

10 (3) The name, address, and position with the legal expense fund of the
11 custodian of books and accounts.

12 (4) A listing of all banks, safety deposit boxes, or other depositories used,
13 including the names and numbers of all accounts maintained and the
14 numbers of all such safety deposit boxes used. The Board shall keep
15 any account number required by this Article confidential except as
16 necessary to conduct an audit or investigation, except as required by a
17 court of competent jurisdiction, or except as confidentiality is waived
18 by the treasurer. Disclosure of an account number in violation of this
19 subdivision shall not give rise to a civil cause of action. This limitation
20 of liability does not apply to the disclosure of account numbers in
21 violation of this subdivision as a result of gross negligence, wanton
22 conduct, or intentional wrongdoing that would otherwise be
23 actionable.

24 (5) The name or names and address or addresses of any assistant treasurers
25 appointed by the treasurer. Such assistant treasurers shall be authorized
26 to act in the name of the treasurer, who shall be fully responsible for
27 any act or acts committed by an assistant treasurer, and the treasurer
28 shall be fully liable for any violation of this Article committed by any
29 assistant treasurer.

30 (6) Any other information which might be requested by the Board that
31 deals with the legal expense fund organization.

32 (b) Any change in information previously submitted in a statement of
33 organization shall be reported to the Board within 10 calendar days following the
34 change.

35 **"§ 163-278.310. Quarterly reports.**

36 The treasurer of each legal expense fund shall be required to file a quarterly report
37 with the Board containing all of the following:

38 (1) Contributions. – The name and complete mailing address of each
39 contributor, the amount of the contribution, the principal occupation of
40 the contributor, and the date the contribution was received. The total
41 sum of all contributions to date shall also be plainly exhibited. The
42 treasurer is not required to report the name of any contributor making a
43 total contribution of fifty dollars (\$50.00) or less in a calendar quarter,
44 but shall instead report the fact that the treasurer has received a total

1 contribution of fifty dollars (\$50.00) or less, the amount of the
2 contribution, and the date of receipt.

3 (2) Expenditures. – A list of all expenditures made by or on behalf of the
4 legal expense fund. The report shall list the name and complete
5 mailing address of each payee, the amount paid, the purpose, and the
6 date such payment was made. The total sum of all expenditures to date
7 shall also be plainly exhibited. The payee shall be the individual or
8 person to whom the legal expense fund is obligated to make the
9 expenditure. If the expenditure is to a financial institution for revolving
10 credit or a reimbursement for a payment to a financial institution for
11 revolving credit, the statement shall also include a specific itemization
12 of the goods and services purchased with the revolving credit. If the
13 obligation is for more than one good or service, the statement shall
14 include a specific itemization of the obligation so as to provide a
15 reasonable understanding of the obligation.

16 (3) Loans. – All proceeds from loans shall be recorded separately with a
17 detailed analysis reflecting the amount of the loan, the source, the
18 period, the rate of interest, and the security pledged, if any, and all
19 makers and endorsers.

20 "**§§ 163-278.311 through 163-278.315: Reserved for future codification purposes.**

21 "**§ 163-278.316. Limitations on contributions.**

22 (a) No person shall make, and no treasurer shall accept, any monetary
23 contribution in excess of fifty dollars (\$50.00) unless such contribution is in the form of
24 a check, draft, money order, credit card charge, debit, or other noncash method that can
25 be subject to written verification. No contribution in the form of check, draft, money
26 order, credit card charge, debit, or other noncash method may be made or accepted
27 unless it contains a specific designation of the intended contributee chosen by the
28 contributor.

29 (b) The State Board of Elections may adopt rules as to the reporting and
30 verification of any method of contribution payment allowed under this Article. For
31 contributions by money order, the State Board shall adopt rules to ensure an audit trail
32 for every contribution so that the identity of the contributor can be determined.

33 (c) For any contribution made by credit card, the credit card account number of a
34 contributor is not a public record.

35 "**§§ 163-278.317 through 163-278.319: Reserved for future codification purposes.**

36 "**§ 163-278.320. Permitted uses of legal expense funds.**

37 (a) A legal expense fund may be used for reasonable expenses actually incurred
38 by the elected official in relation to a legal action or potential legal action brought by or
39 against the elected official.

40 (b) Upon completion of the legal action or potential legal action, the remaining
41 monies in the legal expense fund shall be distributed to either the Indigent Persons'
42 Attorney Fee Fund or to the North Carolina State Bar for the provision of civil legal
43 services for indigents.

44 "**§§ 163-278.321 through 163-278.329: Reserved for future codification purposes.**"

1 **SECTION 2.** G.S. 163-278.22(7) reads as rewritten:

2 "(7) To make investigations to the extent the Board deems necessary with
3 respect to statements filed under the provisions of this Article and with
4 respect to alleged failures to file any statement required under the
5 provisions of this ~~Article~~, Article or Article 22M and, upon complaint
6 under oath by any registered voter, with respect to alleged violations of
7 any part of this ~~Article~~. Article or Article 22M."

8 **SECTION 3.** G.S. 163-278.22(8) reads as rewritten:

9 "(8) After investigation, to report apparent violations by candidates,
10 political committees, referendum committees, legal expense funds,
11 individuals or persons to the proper district attorney as provided in
12 G.S. 163-278.27."

13 **SECTION 4.** G.S. 163-278.36 is repealed.

14 **SECTION 5.** Sections 1, 2, and 3 of this act become effective January 1,
15 2008. The remainder of this act is effective when it becomes law.